

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO,
et al.,

Defendants.

CIVIL NO. 12-2039 (GAG)

**JOINT MOTION REQUESTING SECOND EXTENSION TO REVIEW
ACLU RECOMMENDATIONS REGARDING COMPLIANCE MONITORING**

TO THE HONORABLE COURT:

Plaintiff, the United States of America, and Defendants, the Commonwealth of Puerto Rico and the Puerto Rico Police Bureau (collectively, “the Parties”), respectfully request a second extension until August 2, 2019, to review the memorandum submitted by the American Civil Liberties Union of Puerto Rico (ACLU) as *amicus curiae*, in compliance with the Court’s Order of March 4, 2019. Order, Docket No. 1129. For cause, the Parties state and pray as follows:

1. On March 4, 2019, the Court instructed the ACLU to state its position “as to the current status of affairs as to all areas of the Agreement subject to monitoring” and to “make any prospective recommendations to the Court” by April 15, 2019. *Id.* The Court explained that the ACLU’s memorandum “is intended not to criticize or commend particular incidents or actions taken . . . [r]ather, the same should focus on the larger perspective of the reform itself.” *Id.*

2. On April 15, 2019, before the ACLU submitted its memorandum, the Parties requested a 45-day period to “review the ACLU’s recommendations and determine whether they

are feasible based on the requirements of the Agreement, the authority conferred on the Monitor, and the Court's orders." Jt. Mot. for a 45-Day Period ¶ 4, Docket No. 1195. The Parties also indicated that they would submit a report on "action taken, if any, in response to the ACLU's recommendations and whether any further action is necessary from the Court or the Monitor." *Id.* at ¶ 5. The Court granted the Parties' request. Order, Docket No. 1200 (Apr. 16, 2019).

3. On April 15, 2019, the ACLU filed its memorandum identifying areas of concern and making several recommendations. ACLU Mot. in Compliance, Docket No. 1196. The Court noted the memorandum stating, "The ACLU's recommendations will be discussed, first by the parties, and then by the Court, in due course." Order, Docket No. 1201 (Apr. 16, 2019).

4. During the 45-day review period, superseding events disrupted the Parties' review of the ACLU's recommendations. First, approximately two weeks after filing its memorandum as *amicus curiae*, the ACLU filed two lawsuits against Commonwealth officials seeking relief that mirrored its recommendations in this case. Order, Docket No. 1129. For instance, in its memorandum, the ACLU recommended the "establishment of a permanent independent civilian oversight mechanism" and the adoption of "all necessary measures in order to force PRPB to comply with the 2013 Agreement [for the Sustainable Reform of the Puerto Rico Police Department (Agreement)]", Docket No. 60. ACLU Mot. in Compliance ¶¶ 11-12, Docket No. 1196. In the two lawsuits, which allege civil rights violations by PRPB officers during protests on May 1, 2018, the plaintiffs separately seek, in part, an advisory order leading to the "establishment of a permanent independent civilian oversight mechanism" and injunctive relief to protect rights "as agreed to in the [Agreement] between the United States and the Commonwealth of Puerto Rico." Pl.'s Am. Compl. 28, *Hernandez-Zorrilla v. Rossello-Nevarez*, No. 3:19-cv-1397 (D.P.R. Apr. 29, 2019); Pl.'s Compl. 27, *Carrasquillo-Gonzalez v.*

Rossello-Nevarez, No. 3:19-cv-1414 (D.P.R. Apr. 29, 2019). The ACLU's intervening litigation posture with respect to some of its recommendations raises questions about the propriety of the ACLU's continued status as *amicus curiae* in this case.

5. Second, on May 14, 2019, before the end of the 45-day review period, the former Monitor resigned. Order, Docket No. 1218 (May 14, 2019). The Monitor's departure required that the Parties work closely and continuously with the Court, the Acting Monitor, and the Special Master to continue the operations of the Monitor's Office and complete outstanding monitoring methodologies. Because of these joint and sustained efforts, the Court approved a consensus methodology on use of force on June 13, 2019 (Order, Docket No. 1256), and, on June 17, 2019, the Court lifted the stay imposed on nearly all monitoring activities, Order, Docket No. 1260.

6. Now that the Court has lifted the stay on nearly all monitoring activities, the Court has appointed an Acting Monitor, and the Parties have agreed to a schedule to complete the remaining monitoring methodologies, the Parties intend to resume their review of the ACLU's memorandum. The extension requested herein gives the Parties an opportunity to address the substance of the ACLU's recommendations and determine whether the ACLU's intervening litigation posture with respect to some of its recommendations poses any issues regarding the ACLU's status as *amicus curiae* in this case.

WHEREFORE, the Parties respectfully request a second extension until August 2, 2019, to address the ACLU's recommendations on reform and determine whether any action from this Court is necessary.

WE HEREBY CERTIFY that today we have electronically filed the foregoing document with the Clerk of the Court for the District of Puerto Rico using the CM/ECF system,

which will send a copy and notification of filing to the Acting Monitor, the Special Master, and all counsel of record.

RESPECTFULLY SUBMITTED this 21st day of June, 2019,

For Plaintiff UNITED STATES OF
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